

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 71

HOUSE BILL 2208

AN ACT

AMENDING SECTIONS 38-431 AND 38-431.01, ARIZONA REVISED STATUTES; RELATING TO
PUBLIC MEETINGS AND PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-431, Arizona Revised Statutes, is amended to
3 read:

4 38-431. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Advisory committee" OR "SUBCOMMITTEE" means ~~a committee~~ ANY
7 ENTITY, HOWEVER DESIGNATED, that is officially established, ~~upon~~ ON motion
8 and order of a public body or by the presiding officer of the public body,
9 and whose members have been appointed for the specific purpose of making a
10 recommendation concerning a decision to be made or considered or a course of
11 conduct to be taken or considered by the public body.

12 2. "Executive session" means a gathering of a quorum of members of a
13 public body from which the public is excluded for one or more of the reasons
14 prescribed in section 38-431.03. In addition to the members of the public
15 body, officers, appointees and employees as provided in section 38-431.03 and
16 the auditor general as provided in section 41-1279.04, only individuals whose
17 presence is reasonably necessary in order for the public body to carry out
18 its executive session responsibilities may attend the executive session.

19 3. "Legal action" means a collective decision, commitment or promise
20 made by a public body pursuant to the constitution, the public body's
21 charter, bylaws or specified scope of appointment and the laws of this state.

22 4. "Meeting" means the gathering, in person or through technological
23 devices, of a quorum of members of a public body at which they discuss,
24 propose or take legal action, including any deliberations by a quorum with
25 respect to such action.

26 5. "Political subdivision" means all political subdivisions of this
27 state, including without limitation all counties, cities and towns, school
28 districts and special districts.

29 6. "Public body" means the legislature, all boards and commissions of
30 this state or political subdivisions, all multimember governing bodies of
31 departments, agencies, institutions and instrumentalities of the state or
32 political subdivisions, including without limitation all corporations and
33 other instrumentalities whose boards of directors are appointed or elected by
34 the state or political subdivision. Public body includes all quasi-judicial
35 bodies and all standing, special or advisory committees or subcommittees of,
36 or appointed by, ~~such~~ THE public body.

37 7. "Quasi-judicial body" means a public body, other than a court of
38 law, possessing the power to hold hearings on disputed matters between a
39 private person and a public agency and to make decisions in the general
40 manner of a court regarding such disputed claims.

41 Sec. 2. Section 38-431.01, Arizona Revised Statutes, is amended to
42 read:

43 38-431.01. Meetings shall be open to the public

44 A. All meetings of any public body shall be public meetings and all
45 persons so desiring shall be permitted to attend and listen to the

1 deliberations and proceedings. All legal action of public bodies shall occur
2 during a public meeting.

3 B. All public bodies, ~~except for subcommittees and advisory~~
4 ~~committees~~, shall provide for the taking of written minutes or a recording of
5 all their meetings, including executive sessions. For meetings other than
6 executive sessions, such minutes or recording shall include, but not be
7 limited to:

8 1. The date, time and place of the meeting.

9 2. The members of the public body recorded as either present or
10 absent.

11 3. A general description of the matters considered.

12 4. An accurate description of all legal actions proposed, discussed or
13 taken, and the names of members who propose each motion. The minutes shall
14 also include the names of the persons, as given, making statements or
15 presenting material to the public body and a reference to the legal action
16 about which they made statements or presented material.

17 C. Minutes of executive sessions shall include items set forth in
18 subsection B, paragraphs 1, 2 and 3 of this section, an accurate description
19 of all instructions given pursuant to section 38-431.03, subsection A,
20 paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by
21 the public body.

22 D. The minutes or a recording OF A MEETING shall be ~~open to~~ AVAILABLE
23 FOR public inspection three working days after the meeting except as
24 otherwise specifically provided by this article.

25 E. ~~The A public bodies of the cities and towns~~ BODY OF A CITY OR TOWN
26 with a population of more than two thousand five hundred persons ~~that have an~~
27 ~~internet web site~~ shall:

28 1. WITHIN THREE WORKING DAYS AFTER A MEETING, EXCEPT FOR SUBCOMMITTEES
29 AND ADVISORY COMMITTEES, post ON ITS INTERNET WEBSITE, IF APPLICABLE, EITHER:

30 (a) A statement ~~showing~~ DESCRIBING the legal actions taken by the
31 public body of ~~a~~ THE city or town during ~~a~~ THE meeting.

32 (b) ~~or Any recordings on their internet web site for public inspection~~
33 ~~within three working days after the meeting and shall also post the approved~~
34 ~~RECORDING OF THE MEETING.~~

35 2. WITHIN TWO WORKING DAYS FOLLOWING APPROVAL OF THE minutes, POST
36 APPROVED MINUTES of ~~a~~ city or town council meetings ~~within two working days~~
37 ~~following approval of the minutes~~, ON ITS INTERNET WEBSITE, IF APPLICABLE,
38 except as otherwise specifically provided by this article.

39 3. WITHIN TEN WORKING DAYS AFTER A SUBCOMMITTEE OR ADVISORY COMMITTEE
40 MEETING, POST ON ITS INTERNET WEBSITE, IF APPLICABLE, EITHER:

41 (a) A STATEMENT DESCRIBING LEGAL ACTION, IF ANY.

42 (b) A RECORDING OF THE MEETING.

43 ~~E~~ F. All or any part of a public meeting of a public body may be
44 recorded by any person in attendance by means of a tape recorder or camera or

1 any other means of sonic reproduction, provided that there is no active
2 interference with the conduct of the meeting.

3 ~~F.~~ G. The secretary of state for state public bodies, the city or
4 town clerk for municipal public bodies and the county clerk for all other
5 local public bodies shall distribute open meeting law materials prepared and
6 approved by the attorney general to a person elected or appointed to a public
7 body prior to the day that person takes office.

8 ~~G.~~ H. A public body may make an open call to the public during a
9 public meeting, subject to reasonable time, place and manner restrictions, to
10 allow individuals to address the public body on any issue within the
11 jurisdiction of the public body. At the conclusion of an open call to the
12 public, individual members of the public body may respond to criticism made
13 by those who have addressed the public body, may ask staff to review a matter
14 or may ask that a matter be put on a future agenda. However, members of the
15 public body shall not discuss or take legal action on matters raised during
16 an open call to the public unless the matters are properly noticed for
17 discussion and legal action.

18 ~~H.~~ I. A member of a public body shall not knowingly direct any staff
19 member to communicate in violation of this article.

APPROVED BY THE GOVERNOR APRIL 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2007.